

TYPE III DEVELOPMENT STAFF REPORT & RECOMMENDATION

Form DS1402 PLD



Project Name: JACKIE'S LANDING SUBDIVISION

Case Number: PST2009-00012

Location: 11113 NE 112th Avenue

Request: Post decision approval to increase the number of phases from three to six and to alter Conditions of approval A-8 and D-4 regarding a traffic signal at the intersection of SR-503 (see original subdivision approval - PLD2007-00038)

Applicant/Owners: Gary Rademacher Ed Fogg
PO Box 820730 15609 SE Rivershore Drive
Vancouver, WA 98682 Vancouver, WA 98682
Phone - (360) 944-1103

Contact: HDJ Design Group
Attn: Amy Wooten
300 W. 15th Street
Vancouver, WA 98661
Phone - (360) 695-3488, **Fax** - (360) 695-8767
E-mail - wootena@hdjdesigngroup.com

RECOMMENDATION

Approval, with conditions

Team Leader's Initials: *MB* **Date Issued:** August 12, 2009

Public Hearing Date: August 27, 2009

County Review Staff:

	<u>Name</u>	<u>Phone Ext</u>	<u>E-mail Address</u>
Planner:	Richard Daviau	4895	richard.daviau@clark.wa.gov
Engineer:	Doug Boheman, P.E., P.L.S.	4219	doug.boheman@clark.wa.gov
Team Leader:	Michael Butts	4137	michael.butts@clark.wa.gov
Eng. Supervisor: (Trans. Concurrency)	Steve Schulte P. E.	4064	steve.schulte@clark.wa.gov

Comp Plan Designation: Urban Low Density

Zoning: R1-5

Legal Description:

Tax Lots 4 (199623-005) and 9 (199614) in the Southeast quarter of Section 33, Township 3 North, Range 2 East of the Willamette Meridian

Applicable Laws:

Clark County Code Sections: 40.220.010 (Single-family Districts), 40.350.020 (Transportation Concurrency), 40.380 (Stormwater and Erosion Control); 40.500 & 40.510 (Procedures), and 40.520.060 (Post Decision Reviews)

Neighborhood Association:

Sunnyside, **Contact** - Attn: George White (President), PO Box 820072, Vancouver, WA 98682, **Phone** - (360) 896-6216, **E-mail** - sunnyside5@pacifier.com

Time Limits:

The application was submitted on June 2, 2009 and determined to be fully complete on June 16, 2009. Therefore, the County Code requirement for issuing a decision within 92 days lapses on September 16, 2009.

Vesting:

An application is reviewed against the subdivision, zoning, transportation, stormwater and other land development codes in effect at the time a fully complete application for preliminary approval is submitted. Therefore, the application was vested at the time of the fully complete submittal date of the original subdivision application May 24, 2007.

Public Notice:

Notice of application and public hearing was mailed to the applicant, the neighborhood association, and property owners within 300 feet of the site on June 30, 2009. One sign was posted on the subject property and two within the vicinity on August 12, 2009.

Public Comments:

The County has not received written public comments regarding the proposal.

Project Description/Background

The applicant is proposing to increase the number of phases from three to six and to alter Conditions of approval A-8 and D-4 regarding a traffic signal at the intersection of SR-503. The following is a comprehensive plan, zoning, and use chart of the area surrounding the site:

Compass	Comp Plan	Zoning	Current Land Use
Site	UL	R1-5	Single-family residential
North	UL	R1-5	Farming
Northeast	UL	R1-5	Single-family residential
South	UL	R1-6	Single-family residential
East	UL	R1-6	Single-family residential
West	UR	UR-10	Single-family residential

Major Issues and Analysis

Staff first analyzed the proposal in light of the 16 topics from the Environmental Checklist (see list below). The purpose of this analysis was to identify any potential adverse environmental impacts that may occur without the benefit of protection found within existing ordinances.

- | | |
|---------------------------------|--|
| 1. Earth | 9. Housing |
| 2. Air | 10. Aesthetics |
| 3. Water | 11. Light and Glare |
| 4. Plants | 12. Recreation |
| 5. Animals | 13. Historic and Cultural Preservation |
| 6. Energy and Natural Resources | 14. Transportation |
| 7. Environmental Health | 15. Public Services |
| 8. Land and Shoreline Use | 16. Utilities |

Then staff reviewed the proposal for compliance with applicable code criteria and standards in order to determine whether all potential impacts will be mitigated by the requirements of the code.

Staff's analysis also reflects review of agency and public comments received during the comment period, and knowledge gained through a site visit.

Major Issues:

Only the major issues, errors in the development proposal, and/or justification for any conditions of approval are discussed below. Staff finds that all other aspects of this proposed development comply with the applicable code requirements, and, therefore, are not discussed below.

LAND USE:

Finding 1 - Phasing

Pursuant to CCC 40.540.040 D4, a phasing plan shall show:

- a. *The phasing plan includes all land within the preliminary plat;*
- b. *Each phase is an independent planning unit with safe and convenient circulation and with facilities and utilities coordinated with requirements established for the entire subdivision; and*
- c. *All road improvement requirements are assured."*

In response to Criterion (a) above, staff finds that the proposed phasing plan does include all land within the preliminary plat.

In response to Criterion (b) above, staff finds that the sequence of construction (based on the phase numbers) can result in each phase being an independent planning unit, provided that the required utilities, stormwater infrastructure and street improvements necessary to support that phase are constructed.

In response to Criterion (c) above, staff finds that construction of the development according to the approved plans will assure the required road.

Finding 2 - Approval Timelines

Pursuant to CCC 40.500.010(B), preliminary plat approval is valid for five years from the date of approval. Subsection (B)(2) of this section provides extensions for phased developments. Those applications specifically approved for phased development may receive subsequent two year extensions in accordance with the following:

1. *At least one (1) phase has met the general development approvals timeline basic rule described in Section 40.500.010(B)(1), within the five (5) year time limit;*
2. *The request for the extension has been submitted in writing to the responsible official at least thirty (30) days prior to the five (5) year deadline, or in the case of a subsequent extension request, at least thirty (30) days prior to the expiration of the approval period;*
3. *The applicant has demonstrated an active effort in pursuing the next phase of the application; and*
4. *The applicant has demonstrated that there are no significant changes in conditions which would render approval of the application contrary to the public health, safety or general welfare.*

A request for extension approval shall be processed as a Type I action. Appeal and post-decision review of a Type I action is permitted as provided in this subtitle. The proposed subdivision should be implemented in accordance CCC 40.500.010(B), measured from the preliminary plat approval date of August 14, 2007. (See Condition 3)

Conclusion (Land Use):

Staff concludes that the proposed preliminary plan meets the land use requirements of the Clark County Code subject to conditions.

TRANSPORTATION CONCURRENCY:

Finding 3

Public Works/Transportation staff does not support the requested change in language with respect to the existing conditions of approval A-8 and D-4. This requested language change is stated in the proposed Section 3 language on page 4 of the applicant's narrative.

The Jackies Landing development currently has conditions of approval (A-8 and D-4) related to a concurrency failure at the intersection of SR-503 and NE 107th Street. Clark County is presently considering undertaking this mitigation work as a County sponsored project with a "reasonably funded" status. However, because no funding source has been identified as of the time of writing of this staff report, the project has not been placed on the County's 6-year Capital Improvement Program. Given the possibility that the project will be undertaken by the County within 6 years, thus allivating the currency failure, County staff recommend that the two existing conditions be modified to reflect that situation

Public Works/Transportation staff recommend the following language be added to Conditions of Approval A-8 and D-4 - "This condition may be modified or eliminated by the Director of Public Works in the event that the County adopts a 6 year Transportation Improvement Program that considers the NE 107th/SR-503 signalization project to be "reasonably funded". (See Condition 3)

Conclusion (Transportation):

Staff concludes that the proposed preliminary plan, subject to the condition, meets the transportation requirements of the Clark County Code and is feasible.

RECOMMENDATION

Based upon the findings and conclusions stated above, staff recommends that the Hearing Examiner **APPROVE** this request with the understanding that the applicant is required to adhere to all applicable codes and laws, and is subject to the following conditions of approval:

Conditions of Approval

1. Except as specifically provided herein, all conditions of approval in the Hearings Examiner's Final Order for PLD2007-00038 (Jackie's Landing Subdivision) dated August 14, 2007 shall remain in effect.
2. Preliminary plat approval shall expire in accordance with the timelines in CCC 40.540.040(D)(4), as measured from the preliminary plat approval date of August 14, 2007.
3. The following language shall be added to Conditions of Approval A-8 and D-4 - "This condition may be modified or eliminated by the Director of Public Works in the event that the County adopts a 6 year Transportation Improvement Program that considers the NE 107th/SR-503 signalization project to be "reasonably funded".

Note: Any additional information submitted by the applicant within fourteen (14) calendar days prior to or after issuance of this report, may not be considered due to time constraints. In order for such additional information to be considered, the applicant may be required to request a hearing extension and pay an open record or continuance fee.

**HEARING EXAMINER DECISION
AND APPEAL PROCESS**

This report to the Hearing Examiner is a recommendation from the Development Services Division of Clark County, Washington.

The Examiner may adopt, modify or reject this recommendation. The Examiner will render a decision within 14 calendar days of closing the public hearing. The County will mail a copy of the decision to the applicant and neighborhood association within 7 days of receipt from the Hearing Examiner. All parties of record will receive a notice of the final decision within 7 days of receipt from the Hearing Examiner.

An **appeal** of any aspect of the Hearing Examiner's decision, except the SEPA determination (i.e., procedural issues), may be appealed to the Board of County

Commissioners only by a party of record. A party of record includes the applicant and those individuals who signed the sign-in sheet or presented oral testimony at the public hearing, and/or submitted written testimony prior to or at the Public Hearing on this matter.

The appeal shall be filed with the Board of County Commissioners, Public Service Center, 1300 Franklin Street, Vancouver, Washington, 98668, within fourteen (14) calendar days from the date the notice of final land use decision is mailed to parties of record.

Any appeal of the final land use decisions shall be in writing and contain the following:

- Case number designated by the County;
- Name of the applicant;
- Name of each petitioner;
- Signature of each petitioner or his or her duly authorized representative;
- A statement showing the following:
 - That each petitioner is entitled to file the appeal as an interested party in accordance with CCC 40.510.030(H);
 - The specific aspect(s) of the decision being appealed;
 - The reasons why each aspect is in error as a matter of fact or law;
 - The evidence relied on to prove the error; and,
- The appeal fee of **\$716**.

The fee shall be refunded if the appeal is withdrawn in writing by the petitioner at least 15 calendar days before the public meeting to consider the appeal.

The Board of Commissioners shall hear appeals of decisions based upon the written record before the examiners, the examiner's decision, and any written comments received in the office of the Board within the following submittal deadlines measured from the date of the filing of the appeal:

- Fourteen (14) calendar days for the appellant's initial comments;
- Twenty-eight (28) calendar days for all responding comments; and,
- Thirty-five (35) calendar days for appellant reply comments, which are limited to the issues raised in the respondent's comments.

Written comments shall be limited to arguments asserting error in or support of the examiner decision based upon the evidence presented to the examiner.

Unless otherwise determined by the Board for a specific appeal, the Board shall consider appeals once a month, on a reoccurring day of each month. The day of the month on which appeals are considered shall be consistent from month to month as determined by Board.

The Board may either decide the appeal at the designated meeting or continue the matter to a limited hearing for receipt of oral argument. If continued, the Board of Commissioners shall designate the parties or their representatives to present argument, and permissible length thereof, in a manner calculated to afford a fair hearing of the issues specified by the Board of Commissioners. At the conclusion of its public

meeting or limited hearing for receipt of oral legal argument, the Board of Commissioners may affirm, reverse, modify or remand an appealed decision.

Ninety percent (90%) of the fee will be refunded if the appeal is withdrawn in writing by the petitioner at least 15 calendar days before the public meeting to consider the appeal.

Attachments:

- Proposed Phasing Plan
- List of Exhibits Received to Date

A copy of the approved preliminary plan, SEPA Checklist and Clark County Code are available for review at:

**Public Service Center
Community Development Department
1300 Franklin Street
P.O. Box 9810
Vancouver, WA 98666-9810
Phone: (360) 397-2375; Fax: (360) 397-2011**

A copy of the Clark County Code is also available on our Web Page at:
Web Page at: <http://www.clark.wa.gov>

[illegible]

PHASE 1: 32 LOTS
PHASE 2: 32 LOTS
PHASE 3: 47 LOTS
PHASE 4: 8 LOTS
PHASE 5: 33 LOTS
PHASE 6: 18 LOTS



HEARING EXAMINER EXHIBITS

Project Name: JACKIE'S LANDING

Case Number: PST2009-00012

Hearing Date: August 27, 2009

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
1		CC Development Services	Aerial Map
2		CC Development Services	Vicinity Map
3		CC Development Services	Zoning Map
4		CC Development Services	Comprehensive Plan Map
5	5/12/09	Applicant: HDJ Design Group	Full Size Maps: Preliminary Subdivision Map, Urban Neighborhood Circulator
6	5/12/09	Applicant: HDJ Design Group	Reduced Modified Plan
7	5/12/09	Applicant: HDJ Design Group	Application Packet: Cover Sheet & Table of Contents, Application Form, Application Fee, Copy of Original Development Plan, Copy of Original Development Decision, Narrative, Modified Plans, Other Relevant Information, Submittal Copies
8	6/16/09	CC Development Services	Development Review Fully Complete Determination
9	6/30/09	CC Development Services	Notice of Type III Development Review Application & Public Hearing
10	6/30/09	CC Development Services	Affidavit of Mailing Public Notice
11	8/7/09	CC Development Services	Notice of Public Hearing to Columbian- to Publish 8/12/09
12	8/7/09	Applicant: HDJ Design Group	Applicants Affidavit of Posting
13	8/12/09	CC Development Services	Affidavit of Posting Public Notice
14	8/12/09	CC Development Services – Richard Daviau, the Project Planner	Type III Development Staff Report & Recommendation
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Copies of these exhibits can be viewed at:

Department of Community Development / Planning Division
1300 Franklin Street
Vancouver, WA 98666-9810